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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-------------------------|---------------------|------------------|
| 10/647,313 | 08/26/2003 | Valerie Dumont Dicianna | 15632-US-NP | 2021 |
| 23477 | 7590 | 02/15/2006 | EXAMINER | |
| MARKS & CLERK 1075 NORTH SERVICE ROAD WEST SUITE 203 OAKVILLE, ON L6M 2G2 CANADA | | | DODSON, SHELLEY A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1616 | |

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,313

Applicant(s)

DICIANNA, VALERIE DUMONT

Examiner

SHELLEY A. DODSON

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

SHELLEY A. DODSON
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/2004 AND 4/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Serial No. 10/647,313
Art Unit 1616

-2-

DETAILED ACTION

1.

Claims 1-16 are pending in this application filed August 26, 2003.

Applicant's claims are directed toward self-tanning composition in sheeted substrate.

Claim Rejections - 35 USC § 103

2.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented

and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun USP 5,972,360, cited and supplied by applicant (R1) in view of McAtee et al. USP 6,153,208 (R2).

Braun discloses a self-tanning product comprising a towelette impregnated with a self-tanning composition. In column 2, lines 30-35 Braun further discloses that the composition mainly comprises dihydroxyacetone and ethoxydiglycol. R1 further discloses that the referenced composition comprises EDTA, methyl paraben, tea tree oil, tocopherol, colorant, antioxidants, humectants, preservatives and fragrances. In column 1, line 50 through to column 2, line 10, R1 discloses that said towelettes are in sachets or sealed canisters or dispensers. Braun discloses that these active ingredients are in the same amounts and proportions claimed by applicant. R1 discloses each and every aspect of the invention as claimed by the applicant in the instant case with the exception of the extract green tea, PPG-12 as the specific emollient, specific sunscreens agents as well as the specific process conditions and limitations to make the self-tanning sheets.

McAtee et al disclose cleansing and conditioning articles for the skin or the hair. In column 14, lines 55-65, R2 discloses that the wipes or towelettes are made from nonwoven substrates such as rayon and polypropylene, specifically, 50% of each material. R2 discloses the specific dimensions and process conditions as claimed by applicant to produce said wipes or towelettes. Note specifically, all figures and columns 1-17 for the specific process conditions of the articles of manufacture. The size of the tanning sheets as well as the process conditions for manufacturing said tanning sheets are taught and disclosed by R2. In column 26, R2 discloses that glycerin is also present. In column 28, line 20, line 51 and line 54, R2 discloses that castor oil, PP-12 and aloe vera gel are also present, respectively. In column 32 line 57 through to column 33, line 6, R2 discloses a variety of oils which also be present. In column 42, line 33, tocopherol is also disclosed. In column 45 line 26 and line 60, dihydroxyacetone, tyrosine and green tea extract are taught, respectively. In column 47, line 13 myrrh is also disclosed. Also in column 47, line 25 through 65 a variety of suncreening agents are also disclosed included those claimed by applicant in the instant case. It would have been obvious to one of ordinary skill in this art at the time

the invention was made to have the self-tanning towelettes of R1 using the specific manufacturing parameters of R2 in view of the teaching of R2 the articles of manufacture of the R2 reference may be self-tanning towelettes which additionally include green tea and well as PPG-12 as the specific emollient. This is in the absence of any clear showing of unexpected results attributable to the specific manufacturing conditions as well as the addition of green tea and PPG-12.

Information Disclosure Statement

4.

The information disclosure statements (IDS) submitted on March 11, 2004 and April 28, 2004 were noted and the submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statements and made them of record.

Telephone Inquiries

5.

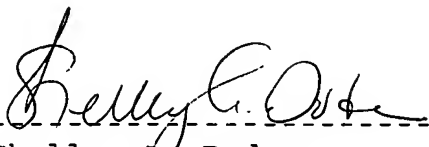
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley A. Dodson whose telephone number is (571) 272-0612 and fax number (571) 273-0612. The examiner can normally be reached on Monday-Thursday from 7:30 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached at (571) 272-0629.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. This new location should be used in all instances when faxing any correspondence numbers to Group 1600. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the

Serial No. 10/647,313
Art Unit 1616

-7-

Private PAIR system, contact Electronic Business Center (EBC) at
866-217-9197 (toll-free).



Shelley A. Dodson
Primary Examiner
Art Unit 1616

February 10, 2006